

Originally Filed: September 3, 2021
Redacted Version Filed: September 10, 2021

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	REDACTED - PUBLIC VERSION
)	
v.)	C.A. No. 21-1015 (LPS)
)	
SAREPTA THERAPEUTICS, INC.,)	
)	
Defendant.)	

**DEFENDANT SAREPTA THERAPEUTICS, INC.’S
UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendant Sarepta Therapeutics, Inc. (“Sarepta”) hereby moves the Court for an Order permitting it to file this Motion to Seal and its Opening Brief in Support of its Motion to Dismiss Claims II-X of Plaintiff Nippon Shinyaku Co., Ltd.’s (“Nippon Shinyaku”) Complaint under seal. Sarepta’s counsel has conferred with counsel for Nippon Shinyaku, and they do not oppose this motion. The grounds for this motion are as follows:

1. This action arises, in part, [REDACTED]

[REDACTED].

2. [REDACTED]

[REDACTED]

[REDACTED]

3. The Opening Brief in Support of its Motion to Dismiss Claims II-X of Plaintiff Nippon Shinyaku’s Complaint [REDACTED]

[REDACTED]

4. This Court has the “inherent equitable power to grant confidentiality orders.” *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 785-86 (3d Cir. 1994). Although there is a “presumption

in favor of public accessibility,” the Court has authority to seal documents “when justice so requires,” provided the party requesting sealing demonstrates that the “interest in secrecy outweighs the presumption” of access. *In re Motions for Access of Garlock Sealing Techs. LLC*, 488 B.R. 281, 299-300 (D. Del. 2013) (quoting *LEAP Sys., Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 221-22 (3d Cir. 2011)). Thus, “courts may deny access to judicial records, for example, where they are sources of business information that might harm a litigant’s competitive standing.” *Littlejohn v. Bic Corp.*, 851 F.2d 673, 678 (3d Cir. 1988) (citing *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978)); *see also* Fed. R. Civ. P. 26(c)(1)(G) (identifying “confidential . . . commercial information” as one category of information that can be protected via court order); *see also Mylan Inc. v. SmithKline Beecham Corp.*, 723 F.3d 413, 415 n.3 (3d Cir. 2013) (finding good cause to seal documents “to protect the parties’ confidential proprietary business and competitive interests”). Where a party relies on assurances of confidentiality [REDACTED] that party has a privacy interest preventing disclosures of its non-public, confidential business and financial information. *See LEAP Sys.*, 638 F.3d at 222.

5. Permitting Sarepta to file this Motion to Seal and its Opening Brief in Support of its Motion to Dismiss Claims II-X of Plaintiff Nippon Shinyaku’s Complaint under seal will preserve the status quo with respect to [REDACTED]

[REDACTED] These interests in secrecy outweigh any presumption or interest that may exist in favor of public access to [REDACTED]

WHEREFORE, Sarepta respectfully requests that the Court issue an Order in the form attached hereto permitting Sarepta to file this Motion to Seal and its Opening Brief in Support of

its Motion to Dismiss Claims II-X of Plaintiff Nippon Shinyaku's Complaint under seal and for these documents to remain under seal.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jack B. Blumenfeld

OF COUNSEL:

Charles E. Lipsey
J. Derek McCorquindale
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1875 Explorer Street, Suite 800
Reston, VA 20190-6023
(571) 203-2700

Michael J. Flibbert
Aaron Gleaton Clay
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 New York Avenue, NW
Washington, DC 20001-4413
(202) 408-4000

Alissa K. Lipton
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
Two Seaport Lane
Boston, MA 02210-2001
(617) 646-1600

Jack B. Blumenfeld (#1014)
Megan E. Dellinger (#5739)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
mdellinger@morrisnichols.com

Attorneys for Defendant

September 3, 2021

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 21-1015 (LPS)
)	
SAREPTA THERAPEUTICS, INC.,)	
)	
Defendant.)	

[PROPOSED] ORDER

This ____ day of September 2021, the Court having reviewed Defendant Sarepta Therapeutics, Inc.’s (“Sarepta”) Motion to Seal its Motion to Seal and its Opening Brief in Support of its Motion to Dismiss Claims II-X of Plaintiff Nippon Shinyaku Co., Ltd.’s Complaint, and the Court having determined good cause exists for the requested sealing, now therefore,

IT IS HEREBY ORDERED that Sarepta’s Motion to Seal is GRANTED.

The Honorable Leonard P. Stark
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 10, 2021, upon the following in the manner indicated:

Amy M. Dudash, Esquire
MORGAN, LEWIS & BOCKIUS LLP
1201 North Market Street, Suite 2201
Wilmington, DE 19801
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

Amanda S. Williamson, Esquire
Christopher J. Betti, Esquire
Krista Vink Venegas, Esquire
Maria E. Doukas, Esquire
Michael T. Sikora, Esquire
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive, Suite 2800
Chicago, IL 60606
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

Jitsuro Morishita, Esquire
MORGAN, LEWIS & BOCKIUS LLP
16F, Marunouchi Building,
2-4-1 Marunouchi, Chiyoda-ku
Tokyo, 100-6316 Japan
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)